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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,181	02/10/2005	Wanda Susanne Kruijt	NL 020762	2825

24737 7590 10/04/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
ZETTL, MARY E	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/524,181	KRUIJT ET AL.	
	Examiner	Art Unit	
	Mary Zettl	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,7-13 and 17-20* is/are rejected.

7)☒ Claim(s) *4-6 and 14-16* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 February 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. As stated in the previous office action, claims 1, 3, 7, and 10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7 and 8 of copending Application No. 10/524179 in view of Lengyel et al. (US 5,907,222 A).

Regarding claims 1, 7, and 10 of the present application, claim 7 of copending Application No. 10/524179 cites each component except for specifying that the lamp is a tube-like fluorescent lamp. Lengyel et al. (US 5,907,222 A) teaches a tube-like fluorescent lamp (Figure 3B, item 14; Abstract) for use in a backlight device. At the

time the invention was made, it would have been obvious to have used a tube-like fluorescent lamp, since it was well known that such lamps are more efficient than incandescent lamps.

Regarding claim 3, claim 8 of copending Application No. 10/524179 adds the flexible material as required by claim 3.

Regarding claim 9, claim 9 of copending Application No. 10/524179 adds the housing abuting against the diffuser plate in a dust-tight manner as required by claim 9. This limitation also satisfies the present applications requirement of a substantially dust-proof housing.

This is a provisional obviousness-type double patenting rejection.

2. Claim 8 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3, of copending Application No. 10/524179 in view of Lengyel et al. (US 5,907,222 A) and further in view of Uehara et al. (US 5,726,722 A).

Regarding claim 8, claim 3 of copending Application No. 10/524179 adds the limitation of a fan as required by claim 8. Claim 3, of copending Application No. 10/524179 does not disclose expressly the housing being dust-proof. Uehara et al. teach a backlight wherein the lamps are housed in a dust-proof housing (col. 8, lines 66-67). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have made the housing substantially dust-proof as taught by Uehara et

al. in order to prevent contaminating particles from entering the housing and decreasing the light output.

This is a provisional obviousness-type double patenting rejection.

3. Claims 11-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13, 17, and 18 of copending Application No. 10/524179. It is noted that the structure and parts listed in claims 12-20 do not further limit the **method** of **lighting** a liquid crystal display.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

4. Applicant's discussion of a double patenting rejection and Appeal No. 1998-0425 (which can not be cited as precedent) is interesting and has been considered. However, the facts in that case are inconsistent with the present rejection. In that case, the alleged "prior art" teaching came from a patent to the same inventors that could not have been cited as prior art against the application. In other words, there was no obvious difference since the change was known only to the inventors. In the present case, the difference between the present application and '179 is one that is well known and would have been obvious to one of average skill in the art. As noted in MPEP 804

a provisional double patenting rejection, based on an applicants' copending application, with or without secondary reference, is clearly proper.

Claim Objections

5. Claim 1 is objected to because on line 2 "tube-like" is indefinite.

6. Claim 10 is objected to because on line 1 "in particular" is indefinite.

7. Claim 12 is objected to because "the glass light-transmitting part" lacks antecedent basis

8. Claims 5 and 15 are objected to because the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation (s) following the phrase are part of the claimed invention.

9. Claim 15 is objected to because of the following informalities: It appears that there is a typographical error in line 1. Appropriate correction is required.

10. Claim 20 is objected to because it fails to further limit claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3, 9-13, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Uehara et al. (US 5,726,722 A).

Regarding claim 1, 10, 11, 12, and 20 Uehara et al. discloses a liquid crystal display and a method for lighting including a backlight device (col. 1, line 35) which comprises a housing (3) in which at least one tube-like fluorescent lamp (1) is present, characterized in that the housing forms a substantially dustproof space (even though there are ventilating holes, the sealing member, 16, prevents inhalation of dirt; col. 7, lines 63-64, col. 8, lines 66-67; col. 9, lines 35-57), and in that part of the lamp extends outside the housing through a wall of the housing (Figure 5), which wall abuts against the lamp in a substantially dust-tight manner at the location where the lamp passes through the wall (Figure 2C, item 16; col. 8, lines 65-67).

Regarding claim 2, Uehara et al. further disclose the wall abutting against the glass, light-transmitting part of the lamp in a substantially dust-tight manner (Figure 5 and Figure 2C).

Regarding claims 3 and 13, Uehara et al. further disclose the wall comprising a flexible material that abuts against the lamp (flexible sealing member, 16, is considered part of the wall; col. 8, line 56).

Regarding claims 9 and 19, Uehara et al. further disclose a diffuser plate (7; col. 8, line 13) abutting against the housing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

> invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 1, 2, 9-11, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lengyel et al. (US 5,907,222 A) in view of Yamamoto et al. (US 6,089,739 A).

Regarding claims 1, 2, 10, 11, and 20, Lengyel et al. teach a liquid crystal display including a backlight device (Abstract and col. 1, lines 19-20) which comprises a housing (Figure 3B, surrounding cavity item 16) in which at least one tube-like fluorescent lamp (Figure 3B, item 14; Abstract) is present for lighting the liquid crystal matrix from the rear (Figure 4). The applicant has argued that Lengyel et al. do not teach the lamp extending outside of the housing wall and points out that Lengyel et al. specially teach the lamp being positioned within the cavity. The examiner maintains the rejection and notes that although not labeled, Figures 3A and 3B clearly illustrate the lamp extending outside of the housing wall. The examiner further notes that while the lamp is taught to be positioned within the cavity there is no indication that part of the lamp is not located outside of the housing as well. Lengyel et al. do not disclose expressly the housing forming a dust-proof space. Yamamoto et al. teach a backlight device comprising fluorescent tubes (col. 3, line 2) housed in a dust-proof space (col. 3, lines 29-32). Yamamoto et al. further illustrate the glass light-transmitting part of the lamps abutting against the wall in a substantially dust-tight manner (col. 4, lines 24-26). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the invention of Lengyel et al. such that a dust-proof space was provided as taught by Yamamoto et al. in order to block debris that would have

otherwise effected the luminous intensity and uniformity of the backlight device. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Yamamoto et al. reference has solely be relied upon to teach the obviousness of making the area surrounding the lamps dustproof. The examiner maintains that it would have been obvious to use the teachings of Yamamoto et al. to form a dust-proof space in order to prevent loss of light output due to the collection of dust or dirt on the lamps.

Regarding claims 9 and 19, Lengyel et al. further teach the housing abutting against a diffuser plate (Figure 1, item 2).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Zettl whose telephone number is (571) 272-6007. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MZ

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